

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

REGGIE C. FLEWELLEN,

No. C 07-427 SI (pr)

Petitioner,

**ORDER EXTENDING DEADLINES
AND DENYING COUNSEL**

v.

JAMES TILTON, director,

Respondent.

Respondent has filed an ex parte application for an extension of time to respond to the petition for writ of habeas corpus. Having considered the application and the accompanying declaration of attorney Peggy Ruffra, the court GRANTS respondent's application. (Docket # 5.) Respondent must file and serve his motion to dismiss (or notice that such a motion is unwarranted) no later than **April 27, 2007**. Petitioner must file and serve his opposition to the motion no later than **May 31, 2007**. Respondent must file and serve his reply brief, if any, no later than **June 15, 2007**.

Petitioner has moved for appointment of counsel to represent him in this action. A district court may appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. See id. Based

1 on the materials in the court file, it does not appear that appointment of counsel is required in
2 this action to prevent a due process violation. The motion for appointment of counsel is
3 DENIED. (Docket # 4.)

4 IT IS SO ORDERED.

5 DATED: April 2, 2007



SUSAN ILLSTON
United States District Judge